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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BB56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Snapper-Grouper Fishery off the Southern Atlantic States;  
Amendment 18A

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 18A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18A) for review, approval, and implementation by NMFS. The amendment proposes actions to update the current rebuilding strategy for black sea bass, modify the current system of accountability measures for black sea bass, limit effort in the black sea bass component of the snapper-grouper fishery, and improve fisheries data reporting in the for-hire sector of the snapper-grouper fishery.

DATES: Written comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the amendment identified

by "NOAA-NMFS-2011-0282" by any of the following methods:

- Electronic submissions: Submit electronic comments via the Federal e-Rulemaking Portal:  
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Kate Michie, Southeast Regional Office, NMFS,  
263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2011-0282" in the keyword search and click on "search". To view posted comments during the comment period, enter "NOAA-NMFS-2011-0282" in the keyword search and click on "search". NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule

will not be considered.

Electronic copies of Amendment 18A may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>. Amendment 18A includes an Environmental Impact Statement, an Initial Regulatory Flexibility Analysis, a Regulatory Impact Review, and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-824-5305, or e-mail: [Kate.Michie@noaa.gov](mailto:Kate.Michie@noaa.gov).

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the Federal Register notifying the public that the plan or amendment is available for review and comment.

The South Atlantic snapper-grouper fishery is managed under the FMP. The FMP was prepared by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

#### Background

The primary purpose of Amendment 18A is to address derby fishing conditions in the black sea bass component of the snapper-grouper fishery by reducing effort in the fishery and

reducing the rate of harvest to optimize use of the resource among fishery participants. Amendment 18A would also implement measures to update the current rebuilding strategy for black sea bass in response to the outcome a new stock assessment for the species, and improve data reporting in the for-hire sector of the snapper-grouper fishery.

Targeting of black sea bass has increased as restrictions are placed on other species, and black sea bass has been in a constant catch rebuilding plan since 2006, where the allowable catch is held steady as the stock rebuilds. Furthermore, as black sea bass rebuilds and the population size becomes larger, fish are being harvested at a faster rate. Due to these circumstances, the commercial and recreational annual catch limits (ACLs) have been met before the end of the fishing year for the past 3 fishing years, and the ACL closures have occurred earlier in each consecutive fishing year. In an effort to extend fishing opportunities further into the fishing season, the Council has approved several actions intended to reduce effort and the rate of harvest in the black sea bass segment of the snapper-grouper fishery.

To reduce effort in the commercial sector for black sea bass, Amendment 18A contains an action to establish a black sea bass pot endorsement program. In order to qualify for a black sea bass pot endorsement the following eligibility criteria must be met:

(1) The permit holder must have a South Atlantic Unlimited Snapper-Grouper Permit that is valid (not expired) on the effective date of the final rule implementing Amendment 18A, if approved; (2) the South Atlantic Unlimited Snapper-Grouper Permit must have black sea bass landings with pot gear between January 1, 1999, and December 31, 2010, of at least 2,500 lb (1,134 kg), round weight; and (3) the South Atlantic Unlimited Snapper-Grouper Permit must have reported black sea bass landings with pot gear between January 1, 2008, and December 31, 2010. There are 31 South Atlantic Unlimited Snapper-Grouper Permit holders who meet the criteria and who would receive an endorsement to fish for black sea bass using pot gear, which constitutes a sizable reduction from the 50 permit holders who fished using black sea bass pot gear during the 2011/2012 fishing year.

Related to the proposed endorsement program are provisions contained in Amendment 18A to allow for transferability of the endorsements once they are issued, and a 90-day opportunity to appeal the non-issuance of endorsements based on landings records. Additionally, Amendment 18A proposes to limit the number of black sea bass pot tags issued to any endorsement holder to 35 per vessel each permit year. Previously there was no limit on the number of pot tags a South Atlantic Unlimited Snapper-Grouper Permit holder could obtain and use.

Amendment 18A also includes a 1,000 lb (454 kg), round

weight, commercial trip limit intended to further reduce the rate of harvest of black sea bass. This action, paired with the endorsement program, is expected to result in the commercial fishing season, which begins on June 1, remaining open until August or September of the 2012/2013 fishing year, which is approximately 1 to 2 months longer than the previous fishing year.

The Council determined a modification to the current size limit regulations for black sea bass may also help to reduce the rate of harvest in the commercial and recreational sectors. Therefore, Amendment 18A contains an action to change the recreational minimum size limit from 12 inches (30.5 cm), total length (TL) to 13 inches (33 cm), TL, and to increase the commercial minimum size limit from 10 inches (25.4 cm), TL, to 11 inches (28 cm), TL. In addition, Amendment 18A would require that all black sea bass pots be returned to shore (but may remain on the vessel) at the conclusion of each trip, in order to reduce bycatch of non-target species and reduce the risk of protected species interactions with vertical line gear.

In October 2011, a new stock assessment for black sea bass was completed through the Southeast Data Assessment and Review process. The stock assessment indicates that black sea bass are no longer overfished but have not yet been fully rebuilt. A 10-year rebuilding plan was implemented in 2006 and should end in

2016. Amendment 18A contains actions to modify the current rebuilding strategy for black sea bass based on the outcome of this new stock assessment. The Council voted to modify the current constant catch rebuilding strategy to one that would hold catch constant (847,000 lb (384,193 kg)) round weight, (718,000 lb (325,679 kg)) gutted weight, in fishing years 2012/2013 and 2013/2014 and then change to  $F_{\text{rebuild}}$  in 2014/2015.  $F_{\text{rebuild}}$  is defined as a constant fishing mortality strategy that maintains the 66 percent probability of recovery rate throughout the remaining fishing seasons of the rebuilding timeframe. After the 2015/2016 fishing season, the fishing mortality rate would be held constant until modified. Additionally, Amendment 18A would set a new stock ACL for black sea bass, which would be equal to the optimum yield and the acceptable biological catch (ABC), which is 847,000 lb (384,193 kg) round weight, 718,000 lb (325,679 kg) gutted weight. The ACL would remain the same during the next two fishing seasons, after which a new assessment update would need to be completed to determine whether or not it is appropriate to increase the ACL in the 2015/2016 fishing year. Based on the current allocation formula implemented through the final rule for Amendment 13C to the FMP (71 FR 55096, September 21, 2006), the commercial allocation is 43 percent of the ABC and the recreational allocation is 57 percent of the ABC. Therefore, the commercial ACL would be set at 309,000 lb (140,160 kg) gutted

weight, 364,620 lb (165,389 kg) round weight, and the recreational ACL would be set at 409,000 lb (185,519 kg) gutted weight, 482,620 lb (218,913 kg) round weight. Amendment 18A also proposes an annual catch target (ACT) of 357,548 lb (162,180 kg) gutted weight, 421,907 lb (191,400 kg) round weight, for the recreational sector, which is set at a level lower than the ACL to help prevent ACL overages from occurring. In the case of black sea bass, the recreational ACT would not trigger any preventative or corrective action. The ACT would serve as a management reference point to track the effectiveness of management measures intended to control recreational harvest.

Amendment 17B to the FMP (Amendment 17B) implemented a system of accountability measures (AMs) for the commercial and recreational black sea bass sectors to limit harvest to the sector ACLs and correct for ACL overages if they occur. Subsequent to the implementation of Amendment 17B, the Council determined the methodology employed by the system of AMs under Amendment 17B may not be the most appropriate way to constrain harvest at or below the sector ACLs and it could unnecessarily penalize participants in the commercial and recreational sectors of the black sea bass component of the snapper-grouper fishery. Therefore, Amendment 18A proposes to modify the AMs specified in Amendment 17B to eliminate the use of the 3-year running average to determine ACL overages. Eliminating the 3-year running



average would result in a reduced risk of implementing overly conservative AMs. The modified AMs in Amendment 18A would also implement a payback provision if the commercial ACL is exceeded, and includes a payback provision in the event the recreational ACL is exceeded regardless of the overfished status of the stock.

In addition to the actions listed previously, Amendment 18A would also require vessels that have South Atlantic Charter/Headboat Snapper-Grouper Permits to report landings information electronically, if selected to do so by NMFS. Reporting would be required on a weekly or daily basis.

The Council has submitted Amendment 18A for Secretarial review, approval, and implementation. The decision to approve, partially approve, or disapprove Amendment 18A will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability. After consideration of these factors, and in consistency with the Magnuson-Stevens Act and other applicable laws, NMFS will publish a notice of agency action in the Federal Register announcing the Agency's decision to approve, partially approve, or disapprove Amendment 18A, and the associated rationale.

#### Proposed Rule for Amendment 18A

A proposed rule that would implement measures outlined in Amendment 18A has been received from the Council. In accordance

with the Magnuson-Stevens Act, NMFS is evaluating Amendment 18A to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the Federal Register for public review and comment.

#### Consideration of Public Comments

Comments received by [insert date 60 days after date of publication in the FEDERAL REGISTER], whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 et seq.

Dated: January 26, 2012.

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James P. Burgess, Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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